



DEPARTMENT OF COMMERCE

International Trade Administration

[C-357-826]

White Grape Juice Concentrate from the Republic of Argentina: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable April 20, 2022.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3586.

SUPPLEMENTARY INFORMATION:

The Petition

On March 31, 2022, the Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of white grape juice concentrate (WGJC) from Argentina filed in proper form on behalf of Delano Growers Grape Products, LLC (the petitioner), a domestic producer of WGJC.¹ The Petition was accompanied by an antidumping duty (AD) petition concerning imports of WGJC from Argentina.²

¹ See Petitioner's Letter, "Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina," dated March 31, 2022 (the Petition).

² *Id.*

On April 5, 13, and 14, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ The petitioner filed timely responses to these requests between April 11 and 14, 2022.⁴

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of Argentina (GOA) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of WGJC in Argentina, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing WGJC in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for the alleged program on which we are initiating a CVD investigation, the Petition was accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.⁵

Period of Investigation

Because the Petition was filed on March 31, 2022, the period of investigation (POI) is January 1, 2021, through December 31, 2021.⁶

³ See Commerce's Letters, "Petition for the Imposition of Countervailing Duties on Imports of White Grape Juice Concentrate from Argentina: Supplemental Questions," dated April 5, 2022; "Petition for the Imposition of Countervailing Duties on Imports of White Grape Juice Concentrate from Argentina: Second Supplemental Questionnaire," dated April 13, 2022; "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of White Grape Juice Concentrate from Argentina: Supplemental Questions," dated April 5, 2022 (General Issues Supplemental); and "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of White Grape Juice Concentrate from Argentina: Second Supplemental Questions," dated April 14, 2022.

⁴ See Petitioner's Letters, "Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina," dated April 11, 2022; "Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina," dated April 11, 2022 (Updated Declarations); "Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina," dated April 13, 2022 (First General Issues Supplement); "Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina," dated April 14, 2022 (Second General Issues Supplement); and "Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina," dated April 14, 2022, referencing questions regarding alleged CVD programs.

⁵ See "Determination of Industry Support for the Petition" section, *infra*.

⁶ See 19 CFR 351.204(b)(2).

Scope of the Investigation

The merchandise covered by this investigation is WGJC from Argentina. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

On April 5, 2022, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the product for which the industry is seeking relief.⁷ On April 13, 2022, the petitioner provided a narrative clarification regarding the scope.⁸ The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects the products for which the domestic industry is seeking relief.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).⁹ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,¹⁰ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) May 10, 2022, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on May 20, 2022, which is ten calendar days from the initial deadline.

Commerce requests that any factual information the parties consider relevant to the scope of this investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of this investigation may be relevant,

⁷ See General Issues Supplemental at 4.

⁸ See First General Issues Supplement at 2.

⁹ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27323 (May 19, 1997) (*Preamble*).

¹⁰ See 19 CFR 351.102(b)(21) (defining "factual information").

the party may contact Commerce and request permission to submit the additional information.

All such comments must be filed on the record of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹¹ An electronically filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹²

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOA of the receipt of the Petition and provided it the opportunity for consultations with respect to the CVD petition.¹³ The GOA requested consultations,¹⁴ which were held via video conference on April 11, 2022.¹⁵

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of

¹¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹² See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

¹³ See Commerce's Letter, "Countervailing Duty Petition on White Grape Juice Concentrate from the Argentine Republic: Invitation for Consultations to Discuss the Countervailing Duty Petition," dated April 4, 2022.

¹⁴ See GOA's Letter, "Countervailing Duty Petition on White Grape Juice Concentrate from the Argentine Republic: Invitation for Consultations to Discuss the Countervailing Duty Petition," dated April 5, 2022.

¹⁵ See Memorandum, "Countervailing Duty Petition on Imports of White Grape Juice Concentrate from the Republic of Argentina: Consultations with Officials from the Government of Argentina," dated April 20, 2022 (CVD Consultations Memorandum).

the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁶ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁷

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

¹⁶ See section 771(10) of the Act.

¹⁷ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁸ Based on our analysis of the information submitted on the record, we have determined that WGJC, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁹

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided the total volume of grapes it crushed for WGJC during crop year 2020 (*i.e.*, August 2020 – July 2021).²⁰ The petitioner also provided the total volume of grapes crushed for concentrate during crop year 2020, reported by the U.S. Department of Agriculture’s National Agricultural Statistics Service (USDA NASS) in its July 29, 2021, *2020 Errata to the California Grape Crush Report (July 2021 USDA Grape Crush Report)*.²¹ Because the data in the *July 2021 USDA Grape Crush Report* reflect the total volume of grapes crushed for concentrate, including other concentrate products that are not part of the domestic like product, the petitioner adjusted the volume reported in the *July 2021 USDA Grape Crush Report* in order to estimate the total volume of grapes crushed for WGJC.²² The petitioner then compared its own volume of grapes crushed for WGJC to the estimated total volume of

¹⁸ See Petition at 16-20.

¹⁹ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Countervailing Duty Investigation Initiation Checklist: White Grape Juice Concentrate from Argentina (Argentina CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering White Grape Juice Concentrate from Argentina (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS.

²⁰ See Petition at 5 and 9-10; see also Petitioner’s Letter, “Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina,” dated March 31, 2022 (Exhibit 10 Declaration); and Updated Declarations at Exhibit 10.

²¹ See Petition at 5-8 and Exhibits 21 and 22.

²² *Id.* at 5-8 and Exhibits 14 and 22; see also First General Issues Supplement at Answer to Question 6; and Updated Declarations at Exhibit 14.

grapes crushed for WGJC in crop year 2020.²³ We relied on data provided by the petitioner for purposes of measuring industry support.²⁴

On April 11, 2022, the GOA raised industry support comments during the consultations held regarding the CVD Petition.²⁵

Our review of the data provided in the Petition, Exhibit 10 Declaration, the First General Issues Supplement, the Updated Declarations, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²⁶ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁷ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁸ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁹ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.³⁰

Injury Test

²³ See Petition at 8-10.

²⁴ *Id.* at 5-11 and Exhibits 14, 21, and 22; *see also* Exhibit 10 Declaration; First General Issues Supplement at 2-4 and Answer to Question 6; and Updated Declarations at Exhibit 14. For further discussion, *see* Attachment II of the Argentina CVD Initiation Checklist.

²⁵ See CVD Consultations Memorandum at Attachment.

²⁶ See Petition at 5-11 and Exhibits 14, 21, and 22; *see also* Exhibit 10 Declaration; First General Issues Supplement at 3-4; and Updated Declarations at Exhibits 10 and 14. For further discussion, *see* Attachment II of the Argentina CVD Initiation Checklist.

²⁷ See Attachment II of the Argentina CVD Initiation Checklist; *see also* section 702(c)(4)(D) of the Act.

²⁸ See Attachment II of the Argentina CVD Initiation Checklist.

²⁹ *Id.*

³⁰ *Id.*

Because Argentina is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Argentina materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.³¹

The petitioner contends that the industry’s injured condition is illustrated by underselling and price suppression; lost sales and revenues; decline in the U.S. industry’s production over the years; inventory carryover into the next crush year; removal of grape vine acreage, which impacts the petitioner’s ability to operate at full capacity; and the loss of producers of WGJC and grape growers.³² We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³³

Initiation of CVD Investigation

Based on our examination of the Petition and supplemental responses, we find the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD

³¹ See Petition at 21 and Exhibit 6.

³² *Id.* at 20-34 and Exhibits 2, 5-8, 13, 23-24, and 32-34; *see also* Exhibit 10 Declaration; Updated Declarations at Exhibits 10 and 14; First General Issues Supplement at 1-10 and Answer to Question 17, Supplemental to Exhibits 10 and 33; Updated Exhibit 10; Second General Issues Supplement at 1-6 and Updated Declaration of Jeff Bitter, Supplemental Exhibits 1-3, and Updated Supplement to Exhibit 10; and Petitioner’s Letter, “Petition for the Imposition of Antidumping and Countervailing Duties: White Grape Juice Concentrate from Argentina,” dated April 19, 2022.

³³ See Argentina CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering White Grape Juice Concentrate from Argentina.

investigation to determine whether imports of WGJC from Argentina benefit from countervailable subsidies conferred by the GOA. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on one of the two alleged programs. For a full discussion of the basis for our decision, *see* the Argentina CVD Initiation Checklist. The CVD Initiation Checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner named eight companies in Argentina as producers and/or exporters of WGJC.³⁴ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event that Commerce determines that the number of companies is large and that it cannot individually examine each company based on Commerce's resources, where appropriate, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of WGJC from Argentina during the POI under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the "Scope of the Investigations," in the appendix to this notice.

On April 19, 2022, Commerce released CBP data for U.S. imports of WGJC from Argentina under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.³⁵ Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. Interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication

³⁴ *See* Petition at Exhibit 4.

³⁵ *See* Memorandum, "Countervailing Duty Petition on White Grape Juice Concentrate from the Republic of Argentina: Release of U.S. Customs and Border Protection Entry Data," dated April 19, 2022.

date of this notice of initiation of this CVD investigation. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <https://enforcement.trade.gov/apo>.

Comments on CBP data and respondent selection must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the specified deadline.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOA via ACCESS. To the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of WGJC from Argentina are materially injuring or threatening material injury to a U.S. industry.³⁶ A negative ITC determination will result in this investigation being terminated.³⁷ Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of

³⁶ See section 733(a) of the Act.

³⁷ *Id.*

remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁸ Time limits for the submission of factual information are address in 19 CFR 351.301, which provide specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301 or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances Commerce will grant untimely-filed requests for the extension of time limits. Parties should review Commerce’s regulations concerning the extension of time limits prior to submitting extension requests in this investigation.³⁹

³⁸ See 19 CFR 351.301(b).

³⁹ See 19 CFR 351.301; *see also Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁴⁰ Parties must use the certification formats provided in 19 CFR 351.303(g).⁴¹ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Commerce website at <https://enforcement.trade.gov/apo>. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing a letter of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.⁴²

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: April 20, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

⁴⁰ See section 782(b) of the Act.

⁴¹ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁴² See *Temporary Rule*.

Appendix

Scope of the Investigation

The scope of this investigation covers white grape juice concentrate with a Brix level of 65 to 68, whether in frozen or non-frozen forms. White grape juice concentrate is concentrated grape juice produced from grapes of the *Vitis vinifera* L. species with a white flesh, including fresh market table grapes and raisin grapes (*e.g.*, Thompson Seedless), as well as several varieties of wine grapes (*e.g.*, Chardonnay, Chenin Blanc, Sauvignon Blanc, Colombard, *etc.*). The scope of this investigation covers white grape juice concentrate regardless of whether it has been certified as kosher, organic, or organic kosher. The white grape juice concentrate subject to this investigation consists of 100 percent grape juice with no other types of juice intermixed and no additional sugars or additives included.

The scope does not cover white grape juice concentrate produced from grapes of the *Vitis labrusca* species (*e.g.*, Niagara).

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2009.69.0040 and 2009.69.0060. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.